

AMENDED IN ASSEMBLY MAY 9, 2013

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 561**

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### Introduced by Assembly Member Ting

February 20, 2013

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An act to amend Sections 11911 and 11925 of, and to repeal Section 11924 of, the Revenue and Taxation Code, relating to taxation.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 561, as amended, Ting. Taxation: documentary transfer tax.

Existing law authorizes counties and cities and counties to impose a documentary transfer tax at a specified rate upon deeds, instruments, or writings by which any lands, tenements, or other realty sold are transferred.

This bill would provide that “realty sold” for purposes of the imposition of a documentary transfer tax includes, but is not limited to, any acquisition or transfer of ownership interests in a legal entity that would constitute a change in ownerships of that legal entity’s real property, as specified. *The bill would also require a city, county, or city and county that imposes a documentary transfer tax to submit information to the Board of Equalization annually regarding the imposition of the documentary transfer tax and require the board to compile the information into a publicly available report.*

Existing law prohibits the imposition of a documentary transfer tax on the making or delivery of a conveyance to make effective an order of the Securities and Exchange Commission, if specified requirements are met.

The bill would eliminate that prohibition.

Existing law prohibits the imposition of the documentary transfer tax, in the case of any realty held by a partnership, upon any transfer of an interest in a partnership under specified conditions. Existing law also prohibits more than one documentary tax from being imposed by reason of a specified termination of any partnership or other entity treated as a partnership, and any transfer pursuant to that termination with respect to the realty held by the partnership or other entity.

This bill would eliminate those prohibitions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11911 of the Revenue and Taxation Code  
2     is amended to read:  
3     11911. (a) The board of supervisors of any county or city and  
4     county, by an ordinance adopted pursuant to this part, may impose,  
5     on each deed, instrument, or writing by which any lands, tenements,  
6     or other realty sold within the county shall be granted, assigned,  
7     transferred, or otherwise conveyed to, or vested in, the purchaser  
8     or purchasers, or any other person or persons, by his, her, or their  
9     direction, when the consideration or value of the interest or  
10    property conveyed (exclusive of the value of any lien or  
11    encumbrance remaining thereon at the time of sale) exceeds one  
12    hundred dollars (\$100), a tax at the rate of fifty-five cents (\$0.55)  
13    for each five hundred dollars (\$500) or fractional part thereof.  
14    (b) The legislative body of any city that is within a county that  
15    has imposed a tax pursuant to subdivision (a) may, by an ordinance  
16    adopted pursuant to this part, impose, on each deed, instrument,  
17    or writing by which any lands, tenements, or other realty sold  
18    within the city shall be granted, assigned, transferred, or otherwise  
19    conveyed to, or vested in, the purchaser or purchasers, or any other  
20    person or persons, by his, her, or their direction, when the  
21    consideration or value of the interest or property conveyed  
22    (exclusive of the value of any lien or encumbrance remaining  
23    thereon at the time of sale) exceeds one hundred dollars (\$100), a  
24    tax at the rate of one-half the amount specified in subdivision (a)  
25    for each five hundred dollars (\$500) or fractional part thereof.

1 (c) A credit shall be allowed against the tax imposed by a county  
2 ordinance pursuant to subdivision (a) for the amount of any tax  
3 due to any city by reason of an ordinance adopted pursuant to  
4 subdivision (b). No credit shall be allowed against any county tax  
5 for a city tax that is not in conformity with this part.

6 (d) For purposes of this section, “realty sold” includes, but is  
7 not limited to, any acquisition or transfer of ownership interests  
8 in a legal entity that would constitute a change in ownership of  
9 that legal entity’s real property as set forth in Chapter 2  
10 (commencing with Section 60) of Part 0.5 of Division 1.

11 (e) *A city, county, or city and county that imposes a documentary*  
12 *transfer tax shall submit information to the Board of Equalization*  
13 *annually regarding the imposition of the documentary transfer*  
14 *tax. The board shall compile this information into a report and*  
15 *make the report available to the public.*

16 SEC. 2. Section 11924 of the Revenue and Taxation Code is  
17 repealed.

18 SEC. 3. Section 11925 of the Revenue and Taxation Code is  
19 amended to read:

20 11925. (a) No levy shall be imposed pursuant to this part by  
21 reason of any transfer between an individual or individuals and a  
22 legal entity or between legal entities that results solely in a change  
23 in the method of holding title to the realty and in which  
24 proportional ownership interests in the realty, whether represented  
25 by stock, membership interest, partnership interest, cotenancy  
26 interest, or otherwise, directly or indirectly, remain the same  
27 immediately after the transfer.

28 (b) Notwithstanding subdivision (a), if there is a termination of  
29 a partnership or other entity treated as a partnership for federal  
30 income tax purposes, within the meaning of Section 708 of the  
31 Internal Revenue Code of 1986, for purposes of this part the  
32 partnership or other entity shall be treated as having executed an  
33 instrument whereby there was conveyed, for fair market value,  
34 exclusive of the value of any lien or encumbrance remaining  
35 thereon, all realty held by the partnership or other entity at the time  
36 of the termination.

37 (c) No more than one tax shall be imposed pursuant to this part  
38 by a county, city, or city and county by reason of a termination  
39 described in subdivision (b), or any transfer pursuant thereto, with

- 1 respect to the realty held by a partnership or other entity treated
- 2 as a partnership at the time of termination.

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